Trade in Services Liberalization and Domestic Regulation

Sebastián Sáez*
Head of Foreign Trade Department
Ministry of Economy
Chile

The views expressed are from the author and should not be attributed to the Ministry of Economy or the Chilean Government
Basic Concepts

- Trade liberalization in services means: to promote market discipline in the sector allowing participation of private initiative.

- Regulatory Reform means: the need to adapt domestic regulation to the new environment in a manner consistent with trade liberalization.
Ideal domestic regulatory environment means

- A strong and independent regulatory body, empowered with adequate resources;
- Effective power to regulate and ability to enforce;
- Ability to regulate, due process and accountability;
- Professional expertise, trained and well respected officials.
Trade Liberalization in Services: the rules, the sequences.

- Need to reform legislation before consolidating a new market structure;

- Allow entry of foreign services providers in competition with both domestic operators and public operators;
Trade Liberalization in Services: the rules, the sequences.

- Different means to achieve goals: flexibility in regulatory approach;

- National Treatment in like circumstances;

- Promote regulation that favors competition.
How to deal with conflicting goals?

- Balance Regulator’s interests: we are not there yet.
  - to ensure investment and profitability of the sector: industry friendly;
  - And the consumers’ interest?
Good Regulatory Practices

- OECD
  - Transparency and openness of decision-making
  - Non-discrimination
  - Avoidance of unnecessary trade restrictiveness

- Ministry of Economy approach:
  - Promotion of competition
  - Tariff rates set on the basis of correct resources allocation
  - Transparency and access to relevant information to ensure understanding and confidence on the regulatory authority decision-making
Good Regulatory Practices

□ OECD

- Use of internationally harmonized measures;
- Recognition of equivalence;
- Application of competition principles

□ Ministry of Economy approach:

- Clear regulatory authority and responsibilities;
- Simplify rules with adequate incentives, ex-post penalties and promotion of self-regulation;
- Efficient Dispute resolution mechanisms;
Good Regulatory Practices

OECD

Ministry of Economy approach:

- Stable but updated rules;
- Avoid unnecessary cost to firms;
- Independence of regulatory bodies.
GATS Agreement; Regulator and Trade Experts

☐ GATS Article VI: how do you feel about it?
☐ How to promote dialogue between regulators and trade negotiators?
☐ The problem: regulators are accountable, and negotiators?
☐ What are the needs of developing countries?